

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RUSSELL STEWART,)	
)	
Plaintiff,)	Civ. No. 04-1200-SLR
)	
v.)	
)	
STATE OF DELAWARE,)	
DEPARTMENT OF PUBLIC SAFETY,)	
CAPITOL POLICE,)	
)	
Defendants)	

APPENDIX TO
DEFENDANTS' OPENING BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY
JUDGMENT

/s/ Patricia D. Murphy
Patricia D. Murphy (#3857)
Deputy Attorney General
820 N. French Street
Wilmington, DE 19801
(302) 577-8914

DATED: November 30, 2005

TABLE OF CONTENTS

	<u>Page</u>
State of Delaware Class Series Description	A-1 to A-4
Plaintiff's Letter of Resignation.	A-5
E-mail of March 21, 2003	A-6
Excerpts of Deposition of Captain Hunt	A-7 to A-17
Excerpts of Deposition of Taja Jones	A-18 to A-23

STATE OF DELAWARE
CLASS SERIES DESCRIPTION

July 1, 2000

CAPITOL POLICE OFFICER

Class Code: 26679 to 26686



DESCRIPTION OF OCCUPATIONAL WORK

This class series has eight levels of work in the Investigation, Control, Inspection and Safety Group performing services where status is granted by statute with the authority and duty to enforce criminal laws and are responsible for the prevention, detection and investigation of crime. This group is concerned with the protection of persons and property against loss, injury or disturbance resulting from criminal acts, accidents and other hazards. Training and skill in the use of weapons is required as is the periodic qualification with weapons. Employees must satisfy requirements set forth in statute to carry out their commission and duties and require certification. Performs patrol officer duties to enforce criminal laws and conducts criminal investigations.

Note: Essential functions are fundamental, core functions common to all positions in the class series except for those at the entry (1) level where incumbents are acquiring a working knowledge by attending the law enforcement training program and through on-the-job training. The essential functions are not intended to be an exhaustive list of all job duties for any one position in the class. Since class specifications are descriptive and not restrictive, incumbents can complete job duties of similar kind not specifically listed here.

ESSENTIAL FUNCTIONS:

- Implements appropriate law enforcement action in response to criminal, domestic violence, traffic, miscellaneous complaints and other activities.
- Investigates suspicious and criminal activity which includes detecting, collecting and preserving physical evidence, interviewing victims, witnesses, suspects and defendants, processing charging documents, executing search and arrest warrants and processing defendants.
- Performs vehicle and foot patrol of assigned areas.
- Performs community policing through informational presentations and educational seminars for other state agencies, schools, the public and community organizations.
- Provides protective services to judges, victims, jurors, witnesses, state employees and visitors, legislators and the general public as needed.
- Provides assistance to other law enforcement agencies as back-up or primary response.

A-1

- Takes physical custody of and transports felons and prisoners to appropriate facilities.
- Presents evidence and testimony and prosecutes cases in court.
- Prepares a variety of reports pertaining to response of incidents, daily activities, investigations and training.

Note: The career ladder incorporates levels Trainee, I, II and III. All positions allocated into the career ladder are classified at the III. The Enforcement Trainee level is to provide entry for hiring new employees into the class series but does not preclude hiring new employees at higher levels. To implement the career ladder, current employees are assigned to the level for which they meet promotional standards. Employees are promoted through the career ladder in accordance with promotional standards. The promotional standards, a selection document under separate cover, sets forth the criteria that defines and describes the requirements that must be met at the various levels.

LEVELS OF WORK

CAPITOL POLICE RECRUIT

This is the entry level acquiring a working knowledge of applicable laws, policies, procedures, practices, techniques and equipment by attending the Department approved law enforcement training program and through on-the-job training from other higher level Enforcement Officers.

- Receives close supervision.
- Attends Department approved law enforcement training program.
- Accompanies higher level Officer on vehicle and foot patrols of state owned and controlled properties/buildings until completion of field training.
- Assists in implementation of appropriate law enforcement action in response to criminal, traffic, parking incidents and other activities including assisting other law enforcement agencies.
- Assists with investigating suspicious/criminal activity, gathering/preserving of evidence, interviewing victims, witnesses, suspects and defendants, processing documents, executing search and arrest warrants, processing defendants and preparing reports related to the incidents or crimes.
- Accompanies higher level Officer in taking into physical custody and transporting of prisoners to state correctional facilities and mental patients to rehabilitative facilities.
- Assists with protective services to the courts and other state agencies.
- Regular contacts are typically with other state agencies, other law enforcement agencies and people that are believed to be violent, intoxicated, possessing weapons, etc.

CAPITOL POLICE OFFICER I

A-2

This level describes full performance law enforcement, protective services and community policing work.

- Full performance (full range of Enforcement Officer activities).
- Receives less supervisory direction and assistance.
- Provides on-the-job law enforcement training to lower level Officers.
- Assists in presenting formal educational seminars and specialized training to other state agencies and law enforcement agencies.
- Regular contacts are typically with other state agencies, other law enforcement agencies and people that are believed to be violent, intoxicated, possessing weapons, etc.

CAPITOL POLICE OFFICER II

This class describes full performance work involving law enforcement, protective services, community policing and training.

- Full performance (full range of law enforcement activities).
- Receives general supervision - supervisor does periodic review of progress.
- Provides on-the-job training and technical guidance to lower level Officers.
- Typically assigned to a geographic area; may be assigned to identify and implement compliance and enforcement priorities for an assigned area such as enforcement/safety, training, multiple agency investigations and emergency response.
- Presents informational presentations and educational seminars to state employees, community organizations and the public in conjunction with other law enforcement agencies.
- Regular contacts are typically with lower level Officers, other State, Federal and local law enforcement agencies, community organizations, the public and people that are believed to be violent, intoxicated, possessing weapons, etc.

CAPITOL POLICE OFFICER III

This level describes lead work involving law enforcement, protective services, community policing, training, and threat management.

- Receives minimal supervision.
- Full range of Enforcement Officer activities.
- Lead investigator involving serious accidents, complex complaints or evaluation of illegal acts appearing to be of a regular and organized nature.
- Coordinates with other law enforcement agencies within Delaware.

A-3

- Provides on-the-job training to lower level Officers.
- Presents training and certification to state agencies, state, county and municipal officers, other state agencies, other law enforcement agencies, community organization law enforcement agencies and Division personnel.
- Prepares and presents informational presentations and educational seminars to state employees, community organizations and the public.
- Regular contacts are typically with lower level O, the public and people that are believed to be violent, intoxicated, possessing weapons, etc.

SERGEANT, CAPITOL POLICE

This is advanced law enforcement work at the supervisory level which includes participating in the work of law enforcement, investigation, community policing, and certification training or serves as principal investigator in the most complex investigations which includes participating in the work of law enforcement, investigation, community policing, and certification training. The class reports to a technical superior.

- First line supervisor or principal investigator in the most complex investigations.
- Leads or oversees investigations involving in-depth, long term illegal acts which involves coordinating with subordinate officers and other state, surrounding state and federal law enforcement agencies.
- Coordinates with other prosecuting entities to ensure appropriate arrest and judicial procedures.
- Performs full range of enforcement activities.
- Provides formal training and certification to subordinates, other state agencies and other law enforcement agencies.
- Prepares and presents formal informational presentations and educational seminars to state employees, community organizations and the public.
- Works with other state agencies in implementing applicable management plans which includes identifying key personnel and conducting training and regular exercise drills.

CAPITOL POLICE LIEUTENANT

This is advanced law enforcement work at the supervisory level which includes statewide divisional assignments. Incumbents report to a technical superior.

- Supervises Enforcement Officers I - IV.
- Maintains schedule to ensure Division staffing requirements are met.

A-4

March 19, 2003

To: Sergeant Foraker

Please allow me to thank you and the department of Public Safety for giving me the opportunity to be a member of your security division.

I was hoping that I had the chance to transfer to your police division after receiving information from human resources that I was rated a score of 90 for Police Officer III. I have not heard anymore from this.

It has been a pleasure working under your command with you and my peers. Therefore, I am resigning my position as a Security Officer effective 3/30/03, to a lateral transfer with the Justice of the Peace.

Again, I want to thank you and the Department of Public Safety, and god bless.

Sincerely,



Security Officer
Russell Stewart 9663

Bill
Bush
Stewart's
Resignation
R. Pomeroy

cc. Human Resources
Lt Richard Pomeroy
Chief William Jopp

Harding Robin (DPS)

From: Kashner Thomas (DPS)
 Sent: Friday, March 21, 2003 9:46 AM
 To: Harding Robin (DPS)
 Cc: Hunt David (DPS); Flanders Michelle L (DPS); Pounsberry Richard (DPS)

03/20/03 Interview Schedule:

		<u>Status</u>
0830 Walker, Scott	22.6	
0900 Devore, Thomas W.	22.6	
0930 Deem, George R. ✓	No Show	
1000 Smuzynski, Jerome L.	23.3	
1030 Gibson, Christopher G.	No Show	
1100 Muldrow, Kevin D. ✓	No Show	
1130 Albury, Pashawna	23.6	
1300 Boyle, Gregg S.	No Show	
1430 Lee, Gregory	16.6	

As it stands; Walker, Devore, Smuzynski and Albury passed the interview process. Lee³ did not. Deem, Gibson, Muldrow and Boyle all failed to show up.

Lt Hunt advised that Deem and Muldrow would not be eligible for this current employment opportunity based upon their failure to meet our job requirements when they applied with our agency in the past. Please remove their names from any further and/or future employment consideration with our agency.

You will also notice that we failed initially to add Albury to the list due to a communication problem. If you can, please send me a copy of her application.

Thanks,
 Both

failed Background - re - Lt. Hunt
 phone conversation on 4/14/03

Amijokurox

A-6

1 Q. And according to the memo, you reviewed
2 Mr. Stewart's application; is that correct?

3 A. That's correct.

4 Q. And it says, in the memo, "I conferred with
5 human resources representative, and after reviewing
6 the application, it was determined that Mr. Stewart
7 was not eligible for the position of Capitol Police
8 officer three; is that correct?

9 A. That's correct.

10 Q. And this decision was reached due to
11 Mr. Stewart's employment as a police officer ending in
12 1995; is that correct?

13 A. That's correct.

14 Q. You then indicate that potential employees who
15 have not worked as a police officer for over five
16 years are expected to attend the full academy due to
17 diminished skills and changes in procedure and law; is
18 that correct?

19 A. That's correct.

20 Q. And would it be a fair statement to say that
21 that sentence reflects your understanding of the rules
22 that are promulgated by the -- it's long -- the
23 Delaware Council on Police Training?

24 A. That's correct.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-7

1 Q. -- lists the minimum qualifications for Capitol
2 Police officer three, amongst others things, is
3 possession of a Delaware state -- pardon me,
4 possession of a State of Delaware Council on Police
5 Training certificate or equivalent. And I wanted to
6 explore that, if I could.

7 How does one obtain a State of Delaware
8 Council on Police Training certificate?

9 A. That is acquired through a completion of an
10 approved training academy of the state.

11 Q. So, if I were to look at what is Hunt 2, the
12 recertification process, and I were to qualify under
13 subsection one, that being not an employee for more
14 than a period of 12 months, and I were to complete
15 what is required by COPT, would I then hold a State of
16 Delaware Council on Police Training certificate or
17 would I be considered under the, quote, or equivalent,
18 unquote, of the requirement?

19 A. The "or equivalent" is a reference to out of
20 state certifications, individuals who have reached
21 police certification in another estate.

22 Q. And if someone has an out of state
23 certification, does that get reviewed on an individual
24 basis to determine whether that's acceptable to COPT



WILCOX & FETZER LTD.
Registered Professional Reporters

A-8

1 or does that automatically qualify them for the
2 equivalency?

3 A. What happens, once an out of state certified
4 police officer is hired by us, their training records
5 are submitted to the director of training at the
6 Delaware State Police Academy. In his position as the
7 administrator for the Delaware Council on Police
8 Training, it's his responsibility to review those
9 training records on a course by course, hour by hour,
10 comparison to Delaware standards to ensure that they
11 are all met.

12 Anything that is not up to par with the
13 Delaware requirements, a list is prepared of all the
14 training required by that individual to obtain. Once
15 they have gotten all that training, it's an automatic,
16 they have to have so many hours of the Delaware
17 criminal code, Delaware traffic code. There may be
18 hours and differences, for example, domestic training
19 may require ten hours in Delaware where their state
20 may require six, so there were differences in the
21 requirements from state to state.

22 The list is prepared, it's given to us.
23 It's our responsibility to make sure that officer gets
24 that training. Once they get that training that's



WILCOX & FETZER LTD.
Registered Professional Reporters

A-9

1 required, they are able to take the Delaware Council
2 on Police Training test. Once they successfully
3 complete that and they have additionally ensured that
4 they have their first aid, their CPR, and their
5 firearms training completed, then they are actually
6 able to be certified by the Delaware Council on Police
7 Training.

8 Q. What is their employment status while in that
9 process?

10 A. They work in a civilian capacity. They are not
11 police officers. Their technical title is police
12 officer, because it's a classification title, and they
13 are paid at that level; however, they are -- they wear
14 civilian attire, they do not carry a badge, they do
15 not carry a weapon. They operate as civilians until
16 the training is complete.

17 Q. And if I were to apply for the position, I
18 would have passed muster with respect to the
19 eligibility review that you had done with Mr. Stewart,
20 but it would have been incumbent upon me to bring my
21 training if the -- I am going get it right -- if the
22 director of training for the academy reviews my state
23 certification and says, Here is where you are
24 deficient, and I am able to bring that up to code for



1 Delaware, then I would have a Delaware certificate; is
2 that correct? Did I understand that's the way it
3 works? Do you want me to rephrase that?

4 A. I am not sure what your question is.

5 Q. Let me go back. Take, as a hypothetical, that
6 I make application for a police officer three for the
7 Delaware Capitol Police and I have certification from
8 the state of Hawaii, and as part of my resume to
9 submit, I include certification -- I tell you I am
10 certified from the state of Hawaii and provide you
11 with enough information that you then make a
12 determination that I am eligible to be interviewed
13 because I don't fall afoul of the unemployment
14 situation. I get interviewed. I become a police
15 officer three. And at what point does the director of
16 training review my certifications to determine if I am
17 the equivalent of Delaware or I need additional
18 training?

19 A. We do that as quickly as we can once the
20 officer is hired. The director will not review
21 records prior to employment only because they would be
22 inundated as a way of screen applicants. So once they
23 are actually hired, they will review the records
24 course by course, hour by hour, and make a



WILCOX & FETZER LTD.
Registered Professional Reporters

A-11

1 determination of what training is necessary.

2 Q. And I take it, based on the process that you
3 have explained to me, that the same would occur for
4 every police station in the state of Delaware?

5 MS. MURPHY: If you know

6 BY MR. NOLTE:

7 Q. If you know?

8 A. I don't know what the other ones do. I only
9 know what we do.

10 Q. And during your tenure as the operations
11 commander and in the capacity of reviewing
12 eligibility, have questions arisen as to whether or
13 not someone holds certification from another state?

14 A. Many times. Actually, we get quite a few.
15 Sometimes we get applications from correctional
16 officers who assume that their academy is an
17 equivalent and it's not.

18 We get federal employees who aren't
19 actually certified police officers or in a contractual
20 capacity and they don't meet the definition of
21 equivalency to a Delaware Council on Police Training
22 certificate. It's a police officer certification
23 requirement. We do quite a few out of state
24 certification applications, and, generally, for the



WILCOX & FETZER LTD.
Registered Professional Reporters

A-12

1 most part, most of the officers are still working, so
2 it's a matter if they are certified and they are
3 working, so we don't get a whole lot of the ones where
4 they have a time frame between when they were employed
5 and when they are applying with us.

6 Q. At any time during your review of Mr. Stewart's
7 qualifications, did you discuss his qualifications
8 with him directly?

9 A. No, I did not.

10 Q. Based on the answer that you just gave me, I
11 want to ask another question. Is it possible that I
12 could be employed full time in a police agency of
13 another state and not be certified by that state?

14 A. We have never run into that situation.
15 Everyone that we have encountered as applicants has
16 been an actual certified officer that we have
17 considered.

18 Q. But irrespective, if you get an application
19 from someone who is a current police officer from
20 outside the state of Delaware and you extend them an
21 offer of employment, the director of training is going
22 to review those qualifications?

23 A. If we were to actually hire them. During our
24 hiring process, they are not.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-13

1 Q. Let's go back to my hypothetical then. I was
2 employed in a full-time capacity with a police
3 department in another state. I stopped that
4 employment to work in a different capacity, but during
5 the time that I was not a police officer, I maintained
6 my certification with the state in which I had
7 previously been employed.

8 Where do I fit under the COPT's review and
9 how would you determine my eligibility? Do you
10 understand my question?

11 A. We have followed the COPT as you having been
12 employed or not employed as a certified police
13 officer. We look at an individual, once they stop
14 working for a police agency, in the capacity of a
15 police officer. That is the expiration date of that,
16 and we run the calendar from that point.

17 Q. So, whether or not I maintain my state
18 certification is not considered in terms of whether I
19 could fall within the 12 months or 60 months cutoff?

20 A. We understood the language from the Council on
21 Police Training as employment was a requirement.

22 Q. I want to put in front of you Ms. Johnson's
23 letter of March 14, 2003, and ask whether you have
24 seen that document before?



WILCOX & FETZER LTD.
Registered Professional Reporters

A-14

1 weapon while he is on the federal facility, he has
2 arrest powers, he has, ostensibly, all of the powers
3 that a police officer would have employed in a
4 capacity for either a county, city, or a state.

5 Would you consider that in terms of trying
6 to determine his eligibility? And if I am not giving
7 you enough detail, please let me know.

8 A. We have run into individuals with federal
9 employment like that, and our experience is they are a
10 contractual position and they are not acquiring or
11 maintaining any level of certification with any
12 municipal or state level. And we have used, again,
13 the guidelines that they were maintaining certified
14 police officer experience under some direction,
15 through a state or county or however the individual
16 agency does it, and we have not recognized those
17 positions as certified police officers.

18 Q. If, during that period of employment, doing
19 that capacity as a federal agent -- my understanding
20 is the Department of Navy contracts out across the
21 country for its policing duties -- Mr. Stewart
22 maintained certification with the Pennsylvania State
23 Police, how would that fit in your analysis?

24 A. That would be a unique position I haven't dealt



WILCOX & FETZER LTD.
Registered Professional Reporters

A-15

1 with so far.

2 Q. And, to your knowledge, if that had been the
3 fact with Mr. Stewart, that was not communicated to
4 you?

5 A. That's correct.

6 Q. Did you take part or did you participate in the
7 interviews that were conducted on 3/20/03 for the
8 Capitol Police officer, police officer three position?

9 A. I don't recall.

10 Q. Let me put a memo in front of you and see if
11 that helps refresh your recollection. I don't know if
12 it does or doesn't.

13 A. I am not sure.

14 Q. How many times, during a calendar year, do you
15 -- or even if you do, do you interview candidates?

16 A. We do it quite often. I sit on quite of few of
17 the boards. 2003, I was on -- sometimes a few less.
18 Lieutenant Poundsbury was taking over some of the
19 interview responsibility at that point as most of the
20 positions were from his area of responsibility. The
21 lieutenant in charge of the area would participate in
22 that.

23 Q. How is the board determined, the actual
24 interview board?



1 A. The board generally is made up of the senior
2 officers. Generally, there is one of the lieutenants,
3 preferably sergeants. On occasion, we have used
4 corporals.

5 Q. Who is Michelle Flanders?

6 A. She is the -- I am not sure what her actual
7 title is. She is the actual -- I believe she is the
8 director of human resources. She runs the human
9 resources section for Safety & Homeland Security.

10 Q. What do the numbers that appear below the title
11 "Status" next to some of the interviews mean?

12 A. Those would be results from the interviews. We
13 have a standardized sheet that the state gives us, I
14 believe it's five different categories that we rate
15 the interviews on, on a numerical score of one through
16 five. The scores are collected and averaged out by
17 the number of interviewers and it's -- a numerical
18 score is what determines whether or not it goes
19 forward or not.

20 Q. In this interview pool of nine individuals,
21 there are four no shows?

22 A. Yes.

23 Q. Does that occur on regular basis?

24 A. Yes, it does.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-16

1 Q. How would that occur?

2 A. Often, they find out what our salary is. We
3 have a significant salary problem, and that,
4 generally, once they -- they often apply without any
5 real knowledge of the job, we find. And as it gets
6 closer to the interview, they do a little bit of
7 research, find out what we do. Some of it is they
8 don't like the particular job itself; often, it's the
9 salary. Especially with the certified officers, when
10 they are coming on board from another agency, they are
11 making more money where they are at than coming on
12 board with us.

13 Q. At the bottom of this sheet, there is
14 additional handwriting. With respect to two of the
15 people, and I don't know whether they were interviewed
16 or not, but it says, "Both failed background," and it
17 has your name, phone conversation 4/14/03, and then it
18 appears to be Amy Johnson's signature.

19 A. Angela Johnson.

20 Q. You don't have, at this point, any recollection
21 of discussing failed background checks back in March
22 of 2003?

23 A. No. What they may be referring to, we do an
24 initial check before we do the interviews for criminal



WILCOX & FETZER LTD.
Registered Professional Reporters

A-17

1 applicant services as the senior technician, working
2 with Sergeant Kashner. Is that a name that rings a
3 bell?

4 A. Mm-hmm.

5 Q. How often would you work with Sergeant Kashner?

6 A. Well, I didn't directly work with him per se.
7 What the process was, when we received the
8 applications, is that we would send a list of names
9 over all the applicants that applied for the position,
10 and they would do a process as far as the screening of
11 a background check. Once we got the results back from
12 that, we proceeded on with the process of actually
13 rating their application from a rating sheet that was
14 given for -- through the department.

15 Q. In the spring of 2003, when you were doing the
16 rating process, were you responsible for determining
17 qualifications of an application?

18 A. Through the guidelines of the papers that we
19 had, yes.

20 Q. And did those guidelines include making a
21 determination of whether someone had the necessary
22 requirements to be a police officer as mandated by the
23 council?

24 A. That was not given to us.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-18

1 an applicant is qualified or not qualified, we will
2 call over to Capitol Police and have Captain Hunt or
3 another -- at the time maybe Captain Horsman will come
4 and rate applications to determine whether or not if
5 an applicant is actually qualified.

6 Q. So if you have any questions while you're using
7 your sheets, you'll contact Captain Hunt directly?

8 A. Correct.

9 Q. And he'll assist you?

10 A. Correct.

11 Q. And if that happens, Captain Hunt will
12 either --

13 A. Make the final decision.

14 Q. They'll make the final decision?

15 A. Correct.

16 Q. And if they make the final decision, then this
17 letter never goes out?

18 A. Correct.

19 Q. It shouldn't?

20 A. It shouldn't.

21 Q. And between you and Angela Jefferson --

22 A. Johnson.

23 Q. Johnson. I'm sorry.

24 A. That's all right.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-19

1 when Capitol -- this position came about, he applied
2 for the Capitol Police officer III. From my
3 understanding from looking at his application, he
4 looked like he was qualified. I mean, we didn't know
5 any different from the certificate and equivalent on
6 years that a person had to be out to say that they
7 wasn't qualified. So when we rated the application,
8 we were just basing it on what the application had
9 itself, which was saying he was in law enforcement
10 over three years. He had the training and knowledge
11 for X amount of years. And that's what we based his
12 application on.

13 Q. Do you have a specific memory of doing all that
14 independent of the fact that Mr. Stewart brought this
15 claim and there are documents that you've seen? Do
16 you know Mr. Stewart?

17 A. I don't know him. Just through the Department
18 of Safety and Homeland Security as an employee.

19 Q. And if I understand what you said -- let me
20 break it down a little bit just to be sure. Is it a
21 fair statement that you were not familiar with the
22 eligibility requirements regarding how long someone
23 has been off of a police force?

24 A. Yes. Yes. I can say that.



WILCOX & FETZER LTD.
Registered Professional Reporters

A-20

1 Q. So that issue doesn't come up very often in
2 your rating process?

3 A. No.

4 Q. So my statement was correct or incorrect?

5 A. Say that again. I don't want to get confused.

6 Q. That's fine. You're right. Let's start with a
7 clean slate here.

8 A. Okay.

9 Q. The fact that a particular applicant may not be
10 qualified because they have been off of a certified
11 police force for too long is not an issue that comes
12 up very often?

13 A. Not very often. But it has been brought about
14 since this incident had happened.

15 Q. Okay. Since this issue was brought to your
16 attention, you've seen more instances where it's
17 applied?

18 A. Yes.

19 Q. And do you recall specifically whether it was
20 you or Angela that spoke to then Lieutenant Hunt, now
21 Captain Hunt regarding the fact that Russell Stewart's
22 application was reviewed and determined to be
23 ineligible?

24 A. It was Angela that -- well, honestly, when I



WILCOX & FETZER LTD.
Registered Professional Reporters

A-21

1 was going to think back because I think what happened
2 was, once we had rated the applications and the cert
3 list was pulled -- of course, again the cert list goes
4 over to Captain Hunt. That's when Captain Hunt saw
5 his name and was like something's -- we want to pull
6 his application because, of course, he was once a
7 security officer. So they knew he was out of law
8 enforcement for several years based on when he applied
9 for security officer. So that must have run a red
10 flag to Captain Hunt when he saw his name for this
11 police officer III position, and then we were
12 notified. And that's when, you know, they was coming
13 to me and Angela asking, was Mr. Stewart's
14 application -- how did he -- was rated qualified after
15 the fact. We had already sent him a letter stating he
16 was qualified. And you know, we just went through the
17 process stating that this is what was given us to --
18 you know, we would not -- through Robin Harding, he
19 was qualified, and that's why he received the letter.
20 But come to find out this stipulation with the years
21 on being certified was brought about. We had to send
22 him a letter or Angela had to send him a letter
23 stating that he was not qualified.

24 Q. Is the cert list, is that something that's --



WILCOX & FETZER LTD.
Registered Professional Reporters

A-22

1 A. Through the state.

2 Q. Through the state. Let me show you another
3 document and ask you if you've seen that document
4 before?

5 A. I never seen this document, but I'm familiar
6 with the interview process. But I never -- I can't
7 remember seeing this.

8 Q. Is that document's labelled as an interview
9 schedule? And it looks like it was something that
10 Robin Harding produced on her e-mail, is that correct?

11 A. No. This is from Mr. Kashner to Robin.

12 Q. Okay.

13 A. Okay. This is after the process. Right here
14 is after your actual interview. They interview these
15 people and they receive scores.

16 Q. That's not a cert list?

17 A. No. It's not a cert list.

18 Q. What does the cert list look like?

19 A. A cert list is just a sheet that has the
20 applicant's names and their score saying they are
21 qualified. And that was what we used to call our
22 interviews from.

23 Q. So based on the answer you gave me previously,
24 your understanding or guessing, if it's a guess, is



WILCOX & FETZER LTD.
Registered Professional Reporters

A-23